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SENATE BILL NO. 396

Offered January 9, 2008

Prefiled January 8, 2008

A BILL to amend and reenact §§ 32.1-23, 32.1-276.6, and 32.1-276.9 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 32.1-135.3 and by adding in Chapter 7.2 of Title 32.1 a section numbered 32.1-276.12, relating to costs for health care.

Patron—Edwards

Referred to Committee on Education and Health

Be it enacted by the General Assembly of Virginia:

1. That §§ 32.1-23, 32.1-276.6, and 32.1-276.9 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 32.1-135.3 and by adding in Chapter 7.2 of Title 32.1 a section numbered 32.1-276.12 as follows:

§ 32.1-23. Publication of information.

A. The Commissioner may provide for the publication and distribution of such information as may contribute to the preservation of the public health and the prevention of disease.

B. The Commissioner shall establish, maintain and publicize a toll-free number to provide resource and referral information on pharmaceutical companies' free and discount drug programs for persons who demonstrate financial hardship or otherwise meet program eligibility criteria. Such information shall include, but not be limited to, available drugs, participating pharmaceutical companies, and application procedures for each of the pharmaceutical companies and dispensing methods. Such information shall also include the locations of various Pharmacy Connect programs accessible by that person. The Commissioner may contract with one or more public or private organizations to administer this resource and referral program.

C. The Commissioner shall publicize and make available on the Department's website the annual report on average outpatient procedure costs submitted pursuant to § 32.1-276.12.

§ 32.1-135.3. Written cost estimate required.

Upon request of any patient or his legal representative, any hospital licensed pursuant to this chapter shall provide a written estimate of the total costs reasonably expected to be billed to the patient prior to his treatment.

This section shall not apply to the provision of emergency care by any licensed hospital.

§ 32.1-276.6. Patient level data system continued; reporting requirements.

A. The Virginia Patient Level Data System is hereby continued, hereinafter referred to as the "System." Its purpose shall be to establish and administer an integrated system for collection and analysis of data which shall be used by consumers, employers, providers, and purchasers of health care and by state government to continuously assess and improve the quality, appropriateness, and accessibility of health care in the Commonwealth and to enhance their ability to make effective health care decisions.

B. Every inpatient hospital shall submit to the Board patient level data as set forth in this subsection. Every general hospital, ordinary hospital, outpatient surgical hospital or other facility licensed or certified pursuant to Article 1 (§ 32.1-123 et seq.) of Chapter 5 of this title and every physician and every oral and maxillofacial surgeon certified to perform certain procedures pursuant to § 54.1-2709.1 performing surgical procedures in his office shall also submit to the board outpatient surgical data as set forth in this subsection. Every oral and maxillofacial surgeon certified to perform certain procedures pursuant to § 54.1-2709 shall submit to the Board outpatient surgical data as set forth in this subsection for only those procedures for which certification is required pursuant to § 54.1-2709.1.

Any such hospital, facility, physician or oral and maxillofacial surgeon, as defined in § 32.1-276.3, may report the required data directly to the nonprofit organization cited in § 32.1-276.4. Unless otherwise noted, patient level data elements for hospital inpatients and patients having outpatient surgery shall include, where applicable and included on standard claim forms:

1. Hospital identifier;
2. Attending physician identifier (inpatient only);
3. Operating physician or oral and maxillofacial surgeon identifier;
4. Payor identifier;
5. Employer identifier as required on standard claims forms;
6. Patient identifier (all submissions);
7. Patient sex, race (inpatient only), date of birth (including century indicator), zip code, patient

INTRODUCED

SB396

59 relationship to insured, employment status code, status at discharge, and birth weight for infants
60 (inpatient only);

61 8. Admission type, source (inpatient only), date and hour, and diagnosis;

62 9. Discharge date (inpatient only) and status;

63 10. Principal and secondary diagnoses;

64 11. External cause of injury;

65 12. Co-morbid conditions existing but not treated;

66 13. Procedures and procedure dates;

67 14. Revenue center codes, units, and charges as required on standard claims forms; and

68 15. Total charges.

69 C. State agencies providing coverage for outpatient services shall submit to the Board patient level
70 data regarding paid outpatient claims. Information to be submitted shall be extracted from standard
71 claims forms and, where available, shall include:

72 1. Provider identifier;

73 2. Patient identifier;

74 3. Physician or oral and maxillofacial surgeon identifier;

75 4. Dates of service and diagnostic, procedural, demographic, pharmaceutical, and financial
76 information; and

77 5. Total charges; and

78 6. Other related information.

79 The Board shall promulgate regulations specifying the format for submission of such outpatient data.
80 State agencies may submit this data directly to the nonprofit organization cited in § 32.1-276.4.

81 § 32.1-276.9. Confidentiality, subsequent release of data and relief from liability for reporting;
82 penalty for wrongful disclosure; individual action for damages.

83 A. Patient level data collected pursuant to this chapter shall be exempt from the provisions of the
84 Virginia Freedom of Information Act (§ 2.2-3700 et seq.), shall be considered confidential, and shall not
85 be disclosed other than as specifically authorized by this chapter; however, upon processing and
86 verification by the nonprofit organization, all patient level data shall be publicly available, except
87 patient, physician, and employer identifier elements, which may be released solely for research purposes
88 if otherwise permitted by law and only if such identifier is encrypted and cannot be reasonably expected
89 to reveal patient identities. No report published by the nonprofit organization, the Commissioner, or
90 other person may present information that reasonably could be expected to reveal the identity of any
91 patient. Publicly available information shall be designed to prevent persons from being able to gain
92 access to combinations of patient characteristic data elements that reasonably could be expected to reveal
93 the identity of any patient. The nonprofit organization, in its discretion, may release physician and
94 employer identifier information. *Except as otherwise allowed in this chapter, Outpatient*
95 *surgical charge data shall be made publicly available only pursuant to a review by the Joint Commission*
96 *on Health Care.*

97 B. No person or entity, including the nonprofit organization contracting with the Commissioner, shall
98 be held liable in any civil action with respect to any report or disclosure of information made under this
99 article unless such person or entity has knowledge of any falsity of the information reported or
100 disclosed.

101 C. Any disclosure of information made in violation of this chapter shall be subject to a civil penalty
102 of not more than \$5,000 per violation. This provision shall be enforceable upon petition to the
103 appropriate circuit court by the Attorney General, any attorney for the Commonwealth, or any attorney
104 for the county, city or town in which the violation occurred. Any penalty imposed shall be payable to
105 the Literary Fund. In addition, any person or entity who is the subject of any disclosure in violation of
106 this article shall be entitled to initiate an action to recover actual damages, if any, or \$500, whichever is
107 greater, together with reasonable attorney's fees and court costs.

108 § 32.1-276.12. Average costs for common hospital procedures.

109 A. Pursuant to the contract identified in § 32.1-276.4, and consistent with recommendations set forth
110 in strategic plans submitted and approved pursuant to § 32.1-276.4, the nonprofit organization shall
111 compile a list of the 25 most common outpatient procedures performed in the Commonwealth during the
112 previous calendar year, and the average total cost for each procedure performed at each hospital
113 licensed by the Board.

114 B. Such information shall be submitted, in a format that is clear and understandable to the average
115 health care consumer, by January 1 of each year to the Department of Health for posting on its website.